

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Application of KREKE IMMOBILIEN
KG, Petitioner,

To Issue a Subpoena to Deutsche Bank AG,
for Production of Documents and Testimony
for Use in a Foreign Proceeding

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: Civil Action
: No.: 13-MISC-110 (NRB)
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X

**DECLARATION OF PAMELA ROGERS CHEPIGA IN OPPOSITION TO KREKE
IMMOBILIEN KG'S APPLICATION FOR DISCOVERY IN AID OF A FOREIGN
PROCEEDING PURSUANT TO 28 U.S.C. § 1782**

PAMELA ROGERS CHEPIGA, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct:

1. I am an attorney duly admitted to practice before this Court and I am a partner at Allen & Overy LLP, attorneys for respondent Deutsche Bank AG in the above-captioned action. I respectfully submit this declaration in opposition to Kreke Immobilien KG's ("Petitioner") application for discovery in aid of a foreign proceeding pursuant to 28 U.S.C. § 1782.

2. I have been informed by my client that in 2010, Deutsche Bank AG acquired Sal. Oppenheim jr. + Cie. S.C.A. ("Sal. Oppenheim"), the Luxembourg parent company of Sal. Oppenheim jr. & Cie. AG & Co. KGaA ("Oppenheim"). Thereafter, Sal. Oppenheim transferred the shares in Oppenheim to DB Capital Markets (Deutschland) GmbH ("DB Capital Markets"). DB Capital Markets is a German entity and a wholly-owned subsidiary of Deutsche Bank AG.

3. Dr. Stefan Kraus, a partner at the law firm of Luther Rechtsanwaltsgesellschaft mbH ("Luther") has submitted two declarations to this Court in support of Petitioner's § 1782 application. Based on conversations with my client, it is my understanding that, in addition to its

representation of Petitioner, the Luther law firm is representing in litigation in Germany investors in several of the forty-two Oppenheim-Esch funds beyond the three funds in which Petitioner purportedly invested.

4. Attached hereto as Exhibit A is a true and correct copy of the application for discovery in aid of a foreign proceeding pursuant to 28 U.S.C. § 1782 filed by Petitioner on March 27, 2013, without accompanying exhibits.

5. Attached hereto as Exhibit B is a true and correct copy of Petitioner's proposed subpoena to Deutsche Bank to testify at a deposition pursuant to Federal Rules of Civil Procedure 30(b)(6) and 45. Petitioner filed this proposed subpoena with its application for discovery in aid of a foreign proceeding pursuant to 28 U.S.C. § 1782 on March 27, 2013.

6. Attached hereto as Exhibit C is a true and correct copy of Petitioner's proposed subpoena to Deutsche Bank to produce documents pursuant to Federal Rule of Civil Procedure 45. Petitioner filed this proposed subpoena with its application for discovery in aid of a foreign proceeding pursuant to 28 U.S.C. § 1782 on March 27, 2013.

7. Attached hereto as Exhibit D is a true and correct copy of an English translation of Sal. Oppenheim's General Business Conditions. Pursuant to Section 1 of the General Business Conditions, it is my understanding that the entire business relationship between Petitioner and Sal. Oppenheim is governed by the General Business Conditions. Pursuant to Section 6 of the General Business Conditions, it is my understanding that since Petitioner opened its account with Sal. Oppenheim, there has been an agreement that the business relationship between Petitioner and Sal. Oppenheim is governed by German law and that, in the event of a dispute between Petitioner and Sal. Oppenheim, Sal. Oppenheim may only be sued by Petitioner before the court having jurisdiction for the bank office keeping Petitioner's account. In this case,

it is my understanding that the court having jurisdiction for Sal. Oppenheim's bank office is located in Cologne, Germany.

8. Attached as Exhibit E is a true and correct copy of the 1970 Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (the "Hague Convention"). It is my understanding that when Germany ratified the Hague Convention in 1979, it declared, pursuant to Article 23 of the Hague Convention, that Germany "will not, in its territory, execute Letters of Request issued for the purpose of obtaining pre-trial discovery of documents as known in common law countries." A true and correct copy of Germany's Article 23 declaration is also attached as Exhibit E.

Dated: April 15, 2013
New York, New York

/s/ Pamela Rogers Chepiga
Pamela Rogers Chepiga